App F IX 4

1948-49 (ML)

File No 188-48

Serial Nos 5, 6

Previous References
ML 184-44 (1, 2)

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos Two

P-9
E

Part B for July '49

SUBJECT

Levy of Municipal Surcharge Fees on awards by Arbitrators

To The Compiler, Mysore Gazette

No L 11149/D 28-7-49

Notifies certain amendments to Notification No L 11948/ML 184-44-2 dated 11th June 1945

Rose

8997/Rel

Levy of Rl Surcharge Fees on awards by "Arbitrators

From

The Dy Commr Shimoga Dt

No AIC 3573-48/PR 318-48

19-5-1949

Requests orders in the matter of levy of Rl Surcharge Fees on awards by "Arbitrators"

1) Subd with the references referred to in P W D for orders.

7/6/49

2) Exception is taken to the use of the word "otherwise" in line 4 of rule 1 of the rules framed ~~for Mysore~~ for regulating the collection of the duty (surcharge) on the transfer of immovable property in the Shimoga Town Municipality. The contention that the word does not occur in the rules framed for Davangere and Bangalore is correct (these rules are also under up). The validity of the objection may perhaps be examined by the Law Secretariat.

For Dy

3) There are two points for consideration in this case. The first one relates to the deletion of the words "or otherwise" in the first rule promulgated

8997/1

8711/2

-in north as 1 1948 and
11 6 45. As this would
give rise to several
anomalies, it is desirable that
they maybe omitted, as has been
done in the case of similar rules
presented for Jammu and
Kashmir Tunnels

(1) As regards to second part as to whether
"awards by Arbitrators" are also subject
to transfer duty, the points may be
referred to the Law Secty for his
opinion.

Enclosed for
[illegible]

5) Law Secretary may be consulted

Lawsey
WRC)

M
14/6/49
15 Jun

Secretary to Govt of [illegible]
To
Date 11/6
Govt of [illegible]

11/6/49
15 JUN 1949
1882
Govt of [illegible]

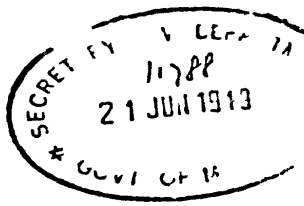
GENERAL & REVENUE SECRETARIAT
15 JUN 1949
[illegible]

8997 Levy of M.L. Surcharge fees 8711/Cus
and on "awards by Arbitrators"

8997
√315

6) Sec 64-A of the Town Municipalities Act levying duty on certain transfers of immovable property, specifically mentions "on instruments of sale, gift and mortgage of immovable property" There is no word 'or otherwise' in this section However, rules have been framed including the words or otherwise' in the rules framed under Sec 64-A of the Town Municipalities Act so as to cover other transfers of property apart from sale, gift and mortgage Such rules are ultra-vires of the Town Municipalities Act

7) Partition of property by arbitration or award does not amount to sale, gift or mortgage



Law Levy 6/21/6

8) 135 13/7 Gen Levy etc 14/7

Mr Hallett
9) Pl keep up for instns 14/7/49

Read instructions
15/7/49

10) Subd with draft letter and a draft notification (Copy of which may be sent to Tea JIC Shimla for info with ref to his letter)
15/7/49 Pr 15/7

11) In view of the opinion of the Law Deptt in para 6 supra, it is necessary to remove the words "or otherwise" occurring in rule 1 of the rules issued with notn no L 11948 / not 184-46 dt 1/6/ by the

8997 V 315

to avoid ambiguities arising in the application of the rules in the Shimoga Zone Mlby - vide para 3 above

12) A draft note is accordingly put up. If this is agreed, it would automatically solve the difficulty brought to notice now & may be approved the same in respect of what has been done in similar rules issued in the cases of Davanagere & Bangalore Dists

Mlby

Secy (Regl) Govt
16/7/49

13) may be agreed

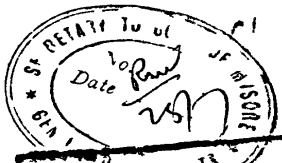
R
Mlby
18/7/49

Minister (L S G)

Appd
R
23/7/49

R
Mlby

Done
26/7/49



Office of the Minister for Local Self Governments
No. 271.
Date 19/7/49

To
The Compiler
The Dy Commr Shimoga Dt
Pol/188-48-6
No L 11149-50/28-7-49
Directs that the words "or otherwise" may be deleted

B
29/7/49

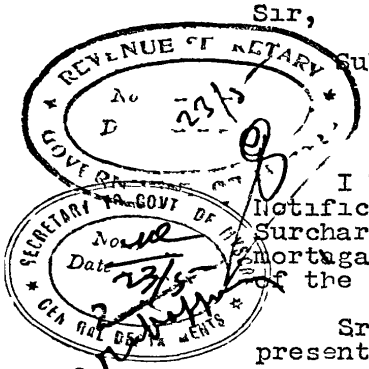
Mk. 186-48-5

No Al.C.3573-48/P.R.318-48 Office of the DeputyCommissioner
Shimoga District
Encls. Shimoga dated 19th May 1949

To

The Secretary to Government,
Revenue Department,
Bangalore

Sir,



Subject - Levy of Municipal Surcharge Fees on awards by "Arbitrators"

I have the honour to state that according to Government Notification No L 11948/111 184-44-2 dated 11-6-45, Municipal Surcharge Fees is leviable on transactions such as sale, gift, mortagage, or"otherwise"of immoveable properties in the limits of the Shimoga Town Municppality

Sri R. K Jayathirthachar, B A LL B , Advocate, Shimoga presented an application to this Office, stating that he prepared an award as an Arbitrator on stamp paper of the value of Rs 31-8-0 and presented it for registration at the local Sub Registry Office, that the Sub Registrar registered it on 2-12-48, that subsequently, he received a communication from the Sub Registrar to the effect that in pursuance of the District Registrar's memo No 66/48-49 dated 11-2-49 war-surcharge and Municipal Transfer duty had to be paid in respect of the award, that Municipal Surcharge duty is not leviable onawards, that Section 64 A of the Town Municipalities Act under which the fees are levied, does not contemplate levy of such fees on documents other than ~~xxkxx~~ instruments of Gift, sale or mortagage, that the word "otherwise" in the Notification is not warranted, that in the rules issued with Notification Nos L. 10162-8/111 188-48-49 dated 10-3-49 and L 15715/111 67-16-37 dated 8-5-47 in respect of the Davanagere and Nanjanagud Municipalities, the word "otherwise" has not been ~~x~~ used, and ha s requested clarification as to whether surcharge fees are leviable in respect of awards by Arbitrators

I request you kindly to obtain the orders of Government in the matter at an early date Correspondence ending with Shimoga Sub Registrar's report No 21-2 dated 22-4-49 is enclosed for reference

Yours faithfully,

Deputy Commissioner I/c
Shimoga District

knr)

No Al C 3573/48-49 Office of the Deputy Commissioner
Shimoga District
Shimoga dated 9th July 1949

GENERAL SECRETARIAT
315
12 JUL 1949
MILITARY BRANCH

To

The Secretary to Government,
Revenue Department, Bangalore

Sir,

SECRETARIAT
No
Date 11/7

Subject - Levy of Municipal Surcharge fees on "awards" by Arbitrators "

***

In inviting reference to this office letter of even number dated 19-5-49, soliciting instructions regarding the subject referred to above, I have the honour to request you kindly to communicate the orders of Government in the matter at a very early date

Yours faithfully,

For Deputy Commissioner
Shimoga District
(Absent from Headquarters)

(knr)

If approved the Subd return of the file from the Law Branch will be awaited.

14/7/49

Draft

14 Cwd

Notification

Government are pleased to direct that the words 'or otherwise' appearing in rule 1 under paragraph 2 of of the Notification No L10011/11948/Rul 193-43-6da 184-44-2 the 6th April 1945 framed under Sec 64 (1) of the Town Municipal Act providing for and for regulating the collection of the a Surcha duty on transfers of immoveable transfer duly to be properly levied in Shimoga Town Mlly, be deleted and the word "or" inserted between the words "gift" and "mortgage" occurring therein B O

Secretary to Government
Rev 15/7/49 General Dept

To
The Compiler, Mysore gazette,
for publication in Part IV-A of the gazette and subtly
of 25 copies to the Secretariat
and 25 copies each to the
D C Shimoga and the PDO,
Town Muni Council, Shimoga

Copy forwarded to the DC Shimoga D/C for information with reference to his letter no A4 C3573/48 dy 9-7-49
Partition of property by arbitration or BO award does not amount to sale, gift or mortgage
Typed draft put up
Ulloor 19/7
Typed draft put up
for 16/7/49

Le copy L 1149 Rev. 188-48-6

20/7/49

NOTIFICATION

Government are pleased to direct that the words 'or otherwise' appearing in rule 1 under paragraph 2 of Notification No L 11948 Ml 184-44-2 dated the 11th June 1945 providing for and regulating the collection of a surcharge duty on transfers of immoveable property in Shimoga Town Municipality be deleted and the word "or" inserted between the words "gift" and "Mortgage" occurring therein

By Order,

20/7/49

General Secretary to Govt

To

The Compiler, Mysore Gazettee, for publication in Part III-1 of the Gazette and supply of 25 copies to the Secretariat and 25 copies each to the Deputy Commissioner and the President, Town Municipal Council, Shimoga

Memo No L 1150 d 20-7-49

Copy of the above is forwarded, with compliments, to the Deputy Commissioner, Shimoga District, for information, with reference to his letter No A1 C 3573/48-49 dated 9-7-1949 Partition of property by arbitration or award does not amount to sale, gift or mortgage

By Order,

for General Secretary to Govt

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No. L1149 |44-158-48-6 General and Revenue Secretariat

Dated, Bangalore 28-4-1949

NOTIFICATION

Government are pleased to direct that the words "or otherwise" appearing in rule 1 under paragraph 2 of Notification No.L.11948/41.184-44-2 dated the 11th June 1945 providing for and regulating the collection of a surcharge duty on transfers of immoveable property in Shimoga Town Municipality be deleted and the word "Or" be inserted between the words "gift" and "Mortgage" occurring therein.

By Order,

Sd. Mir Safdar Hussain.
General Secretary to Government.

To

The Compiler, Mysore Gazettee, for publication in Part III-I of the Gazette and supply of 25 copies to the Secretariat and 25 copies each to the President, Town Municipal Council, Shimoga. and the Deputy Commissioner, Shimoga.

d/c

P.t.o

Memo No.L. 1150 Wn
20/57 Tlg

Copy of the above is forwarded with compliments to the Deputy Commissioner, Shimoga District, for information, with reference to his letter No.A1.C.3573/48-49 dated 9-7-49. Partition of property by abbitration or award does not amount to sale, gift, or mortgage. Recor accompany.

By Order,

For General Secretary to Government.

I draft

To

The Dy Comm'r Shimoga Dt

Sir,

Subject - Levy of 1% Surcharge on awards by Arbitrators

With reference to your letter No A1 C 3573/48-49 dated 9th July 1949 on the above subject, I am directed to state that the partition of property by arbitration or award does not amount to sale, gift or mortgage.

The records received

with your letter are returned
herewith

yours faithfully,

For Secretary to Govt.
Genl. Dept